818

SUPREME COURT OF THE UNITED STATES.

No. 136.

THE UNITED STATES, APPELLANTS,

vs.

JOSÉ DEL CARMEN LUGO ET AL.

APPEAL FROM THE DISTRICT COURT U. S. FOR THE SOUTHERN DISTRICT OF CALIFORNIA.

INDEX.

	Original.	Print.
Proceedings before commissioners	1	1
Petition of claimants	4	2
Deposition of Abel Stearns	5	3
" " E. de Celis	6	3
Document annexed to deposition of Celis	8	5
Map	10	5
Espediente	11	5
Translation of espediente	20	11
Possession	27	14
Map	29	15
Document annexed to deposition of Stearns	34	18
Translation of title and juridical possession	35	18
Opinion of commissioners	41	23
Certificate of secretary	43	24
" clerk of district court	44	24
Proceedings in district court	45	24
Notice of appeal	47	26
Petition of U. S. attorney	48	26
Stipulation to answer	53	29
Answer	54	30
Notice of hearing	56	31
Decree of district court	58	32
Appeal granted	59	33
Clerk's certificate	60	33

GIBSON, print.

8/9

Transcript of the proceedings in case No. 316—*Carmen Lugo et al., claimants*, vs. *The United States, defendants—for the place named San Bernardino.*

OFFICE OF THE BOARD OF COMMISSIONERS
To ascertain and settle private land claims in the State of California.

Be it remembered, that on this thirty-first day of August, anno Domini one thousand eight hundred and fifty-two, before the commissioners to ascertain and settle the private land claims in the State of California, sitting as a board in the city of San Francisco, in the State aforesaid, in the United States of America, the following proceedings were had, to wit:

The petition of José del Carmen Lugo et al., for the place named San Bernadino, was presented, and ordered to be filed and docketed with No. 316, and is as follows, to wit:

(Vide page 5 of this Transcript.)

Upon which petition the following subsequent proceedings were had in their chronological order, to wit:

LOS ANGELES, *Sept. 3d*, 1852.

In case No. 316, José del Carmen Lugo et al., for the place called "San Bernadino," the deposition of Abel Stearns, a witness in behalf of the claimant, taken before Commissioner Hiland Hall, was filed, and is in the words and figures as follows, to wit:

(Vide page of this Transcript 6.)

SATURDAY, *Sept. 25th*, 1852.

In case No. 316, José del Carmen Lugo et al., for the place named "San Bernadino," the deposition of Eulogia de Celis, a witness in behalf of the claimant, taken before Commissioner Hiland Hall, with annexed document marked No. 1, was filed, and is in the words and figures as follows:

(Vide page of this Transcript 7.)

LOS ANGELES, *Sept. 28th*, 1852.

In case numbered 316 the counsel for the claimant filed the following motion, to wit:

Moved, That case numbered 316 be placed on the trial docket.
Which was taken under advisement.

SAN FRANCISCO, *Feb. 14th*, 1853.

On motion of the U. States associate law agent,
Ordered, that the following case be placed on the trial docket, to wit: No. 316, José del Carmen Lugo et al., "San Bernadino."

SAN FRANCISCO, *Feb.* 14*th*, 1853.

Case No. 316—José del Carmen Lugo et al., for the place named "San Bernadino"—called.

The counsel for the claimant, Mr. Halleck, read the petition and the papers in evidence; the United States associate law agent filed his brief; case submitted and taken under advisement by the board.

SAN FRANCISCO, *Feb'y* 21*st*, 1853.

In case No. 316, José del Carmen Lugo et al., for the place named "San Bernadino," Commissioner Harry J. Thornton delivered the opinion and the decree of final confirmation of this board.

Ordered, that the opinion and the decree of final confirmation of this board, delivered this day in this case, be recorded on the journal.

Which opinion and decree are in the words and figures as follows, to wit:

(Vide pages of this Transcript 45.)

Petition.

To the honorable Commissioners to settle private land claims in California.

The petitioners, José del Carmen Lugo, José Maria Lugo, Vicente Lugo, and Diego Sepulveda, respectfully represent:

That on the 21st day of June, A. D. 1842, Juan B. Alvarado, governor of California, by virtue of authority in him vested, granted to the petitioners the tract of land called "San Bernadino," situate in the present county of Los Angeles, containing eight square leagues, with the boundaries described in the grant and corresponding map, as shown in the "expediente," a certified copy of which is submitted herewith marked "A," with a translation marked "B."

That said grant was subsequently duly approved, and the possession given in due form, a translation of which juridical act and title is submitted herewith marked "C." That the petitioners have been for more than ten years, and now are, in the quiet, peaceful, and undisputed possession and occupation of the said tract of land. That they know of no conflicting claim. That they rely for confirmation of title upon the original title-papers issued to them by the government, upon the records and minutes in the archives now in the possession of the surveyor general, and upon such other and further proofs as they may be advised are necessary.

Wherefore they pray the commissioners to confirm to them the aforesaid tract of land.

By their attorneys,
HALLECK, PEACHY, & BILLINGS.

Filed in office, August 31st, 1852.
(Signed) GEO. FISHER, *Sec'y*.

Deposition of Abel Stearns.

OFFICE OF THE BOARD OF LAND COMMISSIONERS FOR CALIFORNIA, LOS ANGELES, *Sept. 3d*, 1852.

On this day, before Hiland Hall, one of the commissioners for ascertaining and settling private land claims in California, came Abel Stearns, a witness produced in behalf of the claimants, José del Carmen Lugo et al., being No. 316 on the docket of said commissioners, and after being duly sworn testified as follows:

The U. S. law agent was duly notified and attended.

In answer to questions by counsel for the claimants, the witness testified as follows:

My name is Abel Stearns, my age fifty-four, and my residence the city of Los Angeles. I have resided in California over twenty-three years.

I am acquaited with the handwriting and signatures of José del C. Lugo, Manuel Dominguez, Ignacio Coronel, Ramando Alanis, Manuel Jimeno, Antonio Ma. Osio, Juan B. Alvarado, Santiago Arguello, and Francisco J. Alvarado. Their several signatures appearing upon a paper now before me, purporting to be the title and return of the giving of judicial possession to the claimants of the rancho San Bernadino, are, I have no doubt, their genuine signatures. Said paper is hereto annexed, and marked No. 1.

I am acquainted with the land described in the papers before mentioned, and have been for seventeen or eighteen years. The claimants I think put cattle on the land in 1841, and built a house there the next year; it might have been the same year. They continued in possession until they sold out to the Mormons in October or Nov., 1851. The average number of cattle which the claimants have kept on the land, I should think, would be about eight thousand.

In answer to questions by the law agent, the witness says that he thinks the land is not within ten leagues of the sea-coast. I think the mission of San Gabriel occupied the land with cattle as late as the year 1832 or 1833. The claimants have had some ground under cultivation, but I cannot tell the quantity.

ABEL STEARNS.

Sworn and subscribed before me,

HILAND HALL, *Com'r.*

Filed in office, Sept. 3rd, 1852.

(Signed) GEO. FISHER, *Sec'y.*

OFFICE OF THE CALIFORNIA LAND COMMISSION, LOS ANGELES, *Sept. 25th*, 1852.

On this day, before Hiland Hall, one of the commissioners to ascertain and settle private land claims in California, came Eulogio de Celis, a witness produced in behalf of the claimants, José del Carmen Lugo et al., whose petition is No. 316 on the docket of the board, and was

duly sworn; his evidence, being given in Spanish, was interpreted by the secretary.

The U. S. law agent was notified to attend.

In answer to questions by the counsel for the petitioners, the witness testified as follows: My name is Eulogio de Celis; my age is forty-four years; I reside in the city of Los Angeles, and have resided in California over sixteen years; I am acquainted *I am acquainted* with the handwriting and signature of Juan B. Alvarado; I have examined the signature of said Alvarado appearing upon a paper now shown me, purporting to be his certificate of the payment of eight hundred dollars in produce, dated April 1, 1846, and I believe said signature to be genuine. I am the person named in said paper as having received the payment; I received the payment in the year 1842 or 1843, in hides and tallow, amounting to eight hundred dollars, from which there should be a deduction of fifty dollars which I paid for transportation. It was received from José del Carmen Lugo, and I credited the seven hundred and fifty dollars to the government of California. I was authorized by Gov'r Alvarado to receive the payment and credit it to the government.

It was customary, when lands *was* granted by the governor which had been occupied by missions, and upon which there were buildings or improvements, to require payment to be made to the government for them; I believe that Lugo had received a grant of that description, and that the payment was made in consequence. The government of California was indebted to me in a larger sum for the transportation of prisoners to Mexico, and the payment was made by Lugo in part satisfaction of my claim. The paper before mentioned is hereto attached, and marked No. 1.

EULOGIO DE CELIS.

Sworn and subscribed before me,

HILAND HALL, *Com'r.*

Filed in office, Sept. 25th, 1852.

(Signed) GEO. FISHER, *Sec'y.*

El que suscribe certifico que en el año de 1842, por disposecion de gob'no del departmento entrego Dn. José del Carmen Lugo, á Dn. Eulogio de Celis, la cantidad de ochocientos peso en es equivelans de remuneracion de la concesion echa á dicho individuó del parage llamado Sn. Bernardino, segun convenir estipulando, con el mismo gobierno en cuyo negocio interino el Capitan Dn. José Ma. Villav'o, por comicion de este *gunery* dia parte de haberse entregado fielmente dicho suma al espresado Dn. Eulogio de Celis.

Y á pedimento del interesado, para las fines que le convengan doy el presente en Monterey, á 1o. de Mayo, de 1846.

JUAN B. ALVARADO.

Document de San Bernardino.

Case 316.—José del Carmen Lugo et al.—San Bernardino.

Document No. 1, annexed to the Deposition of Eulogio Celis, before Com'r Hall.

Translation.

He who subscribes certifies, that in the year 1842, by direction of the government of the department, Don José del Carmen Lugo delivered to Don Eulogio de Celis the sum of eight hundred dollars in the produce of the country, in remuneration of the grant made to said individual of the place called San Bernardino, according to agreement entered into with the government itself, in which matter Captain Don José Villavicencia intervened by commission from the latter, who (Villavicencia) reported that said sum had been faithfully delivered to the said Don Eulogio de Celis.

And at the request of the person interested, for the purposes he may think proper, I give this present in Monterey, on the 1st of April, 1846.

(Signed) JUAN B. ALVARADO.

I certify the foregoing to be a true and correct translation from the original Spanish document, on file in this office in case No. 316, José del Carmin Lugo et al., marked No. 1, and annexed to the deposition of Eulogio de Celis, before Commissioner Hiland Hall, Sept. 25, 1852.

(Signed) GEORGE FISHER, *Sec'y.*

Filed in office, Sept. 20th, 1852.

(Signed) GEORGE FISHER, *Sec'y.*

[*For map see original, page* 10.]

Espediente.

Espediente promovido, por los Ciudadanos José del Carmine Lugo, José Maria Vicente, y Diego Sepulveda, en pretencion del parage nombrado San Bernardino.—Año de 1842.

Sello Tercero, Dos Reales

Habilitado provisionalmente por la aduana maritima de Monterey, en el departamiento de las Californias, para los años de mil ochocientos cuarenta y mil ochocientos cuarenta y uno.

JIMENO. ANTONIO MARIA OSIO.

[Place of the Eagle. Seal.]

S'or Prefecto de este Distrito:

Los Ciud's José de Carmine, José Maria Vicente Lugos, y Diego Sepulveda, ql. abajo se firman y el primero en representacion de las demas, ante V. S. con el respecto divido me presento y digo; que á virtud de un premiso, que el sup'r gob'r departamento me concedio, fue ha establecerme al rancho de Sn. Bernardino, entendido que me acompanaban los individuos, que se aprestaron cuando represente al ex'mo sr. gob'r, con el objeto de colonisar en d'ho rancho mas des graciadamente despues que me se concedir tal peticion. Apresar de hacer invitados á las coloniadores en lo gral todos faltaron, y salo mis hermanos complieron su promisa. Para conseguir el objeto primero he procurado personas q. foressen el establecimente, y los mas resisten á ello. Yo pues en virtud de mi peticion al gob'o me fué á cituar en el espresado paraje, y casa y corrales en la Agua Caliente, miti con mis hermanos mas de cuatro mil veses, y en suma formé mi radicacion. En estuo circunstancias el espresado Diego Sepulveda, me dijo, que se heria á acompanarme cituando se en Ycaipe, como este sitio es de la comprencion de Sn. Bernardino, no tube en conveniento en que asi lo verificarse; al asi efectuar lo supe que el S'or Juez Dn. Ygnacio Palomares, queria estorbala, y el espercado Sepulveda, segun este me dijo, tubo que hira pedir el permiso al d'ho Sr. Palomares, valiendose este de sorprender á V. S. pa. arrancarle el permiso de poner en Yacaipe parte de su cabballada siendo *siendo* asi, ql. con conentimiento mio dejaba meter, y sacar en d'ho sitio las manadas del respedido s'or juez, y como deseaba yo yllenar la gracia que el sup'r gob'r me concedio, trataba se acarrear individuos que formasen la colonizacion, con este motivo le dije al Ciud'o Diego Sepulveda, que se radicarse; y en efecto estaba, haciendo casa de pared, que el S'or Palomares impedio en cierto modo la conclusion, mandando me una carta como con autoridad, pa. que se sacasen los bienes q. teniamas en Yucaipe, provando de este modo el echo de que el citio no estaba des ocupado, como he sabido se le informo, á V. S. estaba pues ocupado, y á virtud del permiso superior. Visto q. á pesar de mi empeño non puedo conseguir individuos q. quieran radicarse como colonos, y advirtiendo que se solicita poseciones particulares como se lo hace el S'or Palomares, no obstante de ser dueno del parage de S. José tan ventago lo yameno mas que el de Yucaipe q. pretende; solicito para los cuatro espresa—

[Sello Tercero, Dos Reales.

Habilitado provicionalmente por la aduana maritima del puerto de Monterey, en el departamiento de las Californias, para los años de mil ochocientos cuarenta y uno.

XIMENO. ANTONIO MARIA OSIO.]

[SEAL.]

—dos y que nos suscribimos, el paraje de S'r Bernardino en propiedad, en la estension de los onze citios poco mas ó menos que comprende el deseño que devidamente acompaño. Esperando que al elevar V. S. la presente instancia ante el sup'r gob'r, se sirva dar su informe, con-

forme á la justicia q. nos asiste, ya por que estamos fruxados en aquel lugar con permiso sup'r hace como dos años, por que tenemos cubierto el parage con mas de seis mil cabesas de ganado mayor, y ya pr. que de mi empeño ha estado fomentar movamente en San Bernardino, donde á pesar de las dificultades y algun peligro hemos permanecido en el y en la continuacion de los trabajos de agricultura, por estas razones s'or prefecto, a V. S. pido y suplico haya presente al sup'r gob'o esta solicitud; esperando que S. E. adredira a ella, cuya gracia imploro con las demas; protestando lo necessario.

Ciudad de Ntra. Sra. de Los Angeles, a 27 de Octubre, 1841.

JOSE DEL CARMIN LUGO,
Aruego de D. JOSÉ MA. y D. VICENTE LUGO.
JUAN BANDINI.

Ex'mo Senor:

De conformidad con lo que pide el que hace cabesa en esta representacion, la eleve á las superiores manos de V. E. con el informe que esta prefectura ni de justicia.

La prefectura de mi cargo esta impuesta de que los S'res Lugos se establicieron en S'n Bernardino con permiso del gobierno departamental concedido con el caracter de una colonia a vir—

[Sello Tercero, Dos Reales.

Habilitado provicionalmente por la aduana maritima del puerto de Monterey, en el departamiento de las Californias, para los años de mil ochocientos cuarenta y mil ochocientos cuarenta y uno.

XIMENO. ANTONIO MARIA OSIO.]

[SEAL.]

—tud, segun entendio, de que ofrecieron establecer una poblacion en aquel los terrenos, mas como esto un tubo efecto ninguna pues hasta a hora se ve no haber cumplido los que representaria ya no se debe entender que Yucaipe pertenesca propiamente al sitio de S'n Bernardino, caro de que se conceda este pa. rancho y no pa. pueblo, á cama de ser independiente de aquel distante como tres leguas.

Hacen referencia de que el juez, Dn. Ygnacio Palomares, es dueno del parage S'n José, sin refleciones en que estoz poseer actualmente una gran portion de terreno en las inmediaciones de la ciudad de Los Angeles, el parage de Sta. Aña del Chino et de S'n Bernardino y la Agua Caliente, que son de bastante estencion, asi es que siendo suficientes estos terrenos pa. los bienes de los S'res Lugos, es preciso que otras personas creadores, ocupen los que haya sin perjuecio de nadia. Diseno tambien que el juez Palomares de su autoridades mando, se car de Yucaipe los bienes de campo que alli habia, esto creo, lo hacia, non pr. la autoridad que hoi representa, sino por el derecho q. la dió a aquel citio lo comision provincial de esta prefectura pa. poner alli sus bienes en el presente año pr. la escarez de pastos en S'r José q. todas se didieron y en Yucaipe abundaban como que no habia, quien las consumiese, Palomares por la misma causa permiterá q. Diego Sepulveda pusiese en—

S'or Prefecto de este Distrito:

Los Ciud's José de Carmine, José Maria Vicente Lugos, y Diego Sepulveda, ql. abajo se firman y el primero en representacion de las demas, ante V. S. con el respecto divido me presento y digo; que á virtud de un premiso, que el sup'r gob'r departamento me concedio, fue ha establecerme al rancho de Sn. Bernardino, entendido que me acompanaban los individuos, que se aprestaron cuando represente al ex'mo sr. gob'r, con el objeto de colonisar en d'ho rancho mas des graciadamente despues que me se concedir tal peticion. Apresar de hacer invitados á las coloniadores en lo gral todos faltaron, y salo mis hermanos complieron su promisa. Para conseguir el objeto primero he procurado personas q. foressen el establecimente, y los mas resisten á ello. Yo pues en virtud de mi peticion al gob'o me fué á cituar en el espresado paraje, y casa y corrales en la Agua Caliente, miti con mis hermanos mas de cuatro mil veses, y en suma formé mi radicacion. En estuo circunstancias el espresado Diego Sepulveda, me dijo, que se heria á acompanarme cituando se en Ycaipe, como este sitio es de la comprencion de Sn. Bernardino, no tube en conveniento en que asi lo verificarse; al asi efectuar lo supe que el S'or Juez Dn. Ygnacio Palomares, queria estorbala, y el espercado Sepulveda, segun este me dijo, tubo que hira pedir el permiso al d'ho Sr. Palomares, valiendose este de sorprender á V. S. pa. arrancarle el permiso de poner en Yacaipe parte de su cabballada siendo *siendo* asi, ql. con conentimiento mio dejaba meter, y sacar en d'ho sitio las manadas del respedido s'or juez, y como deseaba yo yllenar la gracia que el sup'r gob'r me concedio, trataba se acarrear individuos que formasen la colonizacion, con este motivo le dije al Ciud'o Diego Sepulveda, que se radicarse; y en efecto estaba, haciendo casa de pared, que el S'or Palomares impedio en cierto modo la conclusion, mandando me una carta como con autoridad, pa. que se sacasen los bienes q. teniamas en Yucaipe, provando de este modo el echo de que el citio no estaba des ocupado, como he sabido se le informo, á V. S. estaba pues ocupado, y á virtud del permiso superior. Visto q. á pesar de mi empeño non puedo conseguir individuos q. quieran radicarse como colonos, y advirtiendo que se solicita poseciones particulares como se lo hace el S'or Palomares, no obstante de ser dueno del parage de S. José tan ventago lo yameno mas que el de Yucaipe q. pretende; solicito para los cuatro espresa—

[Sello Tercero, Dos Reales.

Habilitado provicionalmente por la aduana maritima del puerto de Monterey, en el departamiento de las Californias, para los años de mil ochocientos cuarenta y uno.

XIMENO. ANTONIO MARIA OSIO.]

[SEAL.]

—dos y que nos suscribimos, el paraje de S'r Bernardino en propiedad, en la estension de los onze citios poco mas ó menos que comprende el deseño que devidamente acompaño. Esperando que al elevar V. S. la presente instancia ante el sup'r gob'r, se sirva dar su informe, con-

forme á la justicia q. nos asiste, ya por que estamos fruxados en aquel lugar con permiso sup'r hace como dos años, por que tenemos cubierto el parage con mas de seis mil cabesas de ganado mayor, y ya pr. que de mi empeño ha estado fomentar movamente en San Bernardino, donde á pesar de las dificultades y algun peligro hemos permanecido en el y en la continuacion de los trabajos de agricultura, por estas razones s'or prefecto, a V. S. pido y suplico haya presente al sup'r gob'o esta solicitud; esperando que S. E. adredira a ella, cuya gracia imploro con las demas; protestando lo necessario.

Ciudad de Ntra. Sra. de Los Angeles, a 27 de Octubre, 1841.

JOSE DEL CARMIN LUGO,
Aruego de D. JOSÉ MA. y D. VICENTE LUGO.
JUAN BANDINI.

Ex'mo Senor:

De conformidad con lo que pide el que hace cabesa en esta representacion, la eleve á las superiores manos de V. E. con el informe que esta prefectura ni de justicia.

La prefectura de mi cargo esta impuesta de que los S'res Lugos se establicieron en S'n Bernardino con permiso del gobierno departamental concedido con el caracter de una colonia a vir—

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Habilitado provicionalmente por la aduana maritima del puerto de Monterey, en el departamiento de las Californias, para los años de mil ochocientos cuarenta y mil ochocientos cuarenta y uno.

XIMENO. ANTONIO MARIA OSIO.]

[SEAL.]

—tud, segun entendio, de que ofrecieron establecer una poblacion en aquel los terrenos, mas como esto un tubo efecto ninguna pues hasta a hora se ve no haber cumplido los que representaria ya no se debe entender que Yucaipe pertenesca propiamente al sitio de S'n Bernardino, caro de que se conceda este pa. rancho y no pa. pueblo, á cama de ser independiente de aquel distante como tres leguas.

Hacen referencia de que el juez, Dn. Ygnacio Palomares, es dueno del parage S'n José, sin refleciones en que estoz poseer actualmente una gran portion de terreno en las inmediaciones de la ciudad de Los Angeles, el parage de Sta. Aña del Chino et de S'n Bernardino y la Agua Caliente, que son de bastante estencion, asi es que siendo suficientes estos terrenos pa. los bienes de los S'res Lugos, es preciso que otras personas creadores, ocupen los que haya sin perjuecio de nadia. Diseno tambien que el juez Palomares de su autoridades mando, se car de Yucaipe los bienes de campo que alli habia, esto creo, lo hacia, non pr. la autoridad que hoi representa, sino por el derecho q. la dió a aquel citio lo comision provincial de esta prefectura pa. poner alli sus bienes en el presente año pr. la escarez de pastos en S'r José q. todas se didieron y en Yucaipe abundaban como que no habia, quien las consumiese, Palomares por la misma causa permiterá q. Diego Sepulveda pusiese en—

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Habilitado provisionalmente por la aduana maritima del puerto de Monterey, en el departamiento de las Californias, para los años de mil ochocientos cuarenta, y mil ochocientos cuarenta y uno.

XIMENO. ANTONIO MARIA OSIO.]

[SEAL.]

—Yucaipe sus bienes, pero este se adelanta á fabricar casa de pared, y esto fue lo que las exito Palomares segun estoy informado; no obstante lo espuesto, V. E. se servira resolver lo que sea de su superior agrado, pues esta prefectura cre que si no explicara asi, seria entorperar q. otras personas disfrutaren de los benificion que la naturaleza ha proporcionada. Hago esta ligera manifestacion en obsequio de la justicia que es mi deber, y poner en clara esta clase de revalidades entre personas de iguales meritos pa. ser atendidos, pues si Palomares ocupa el cites de Yucaipe es a virtud del permiso indicado, y con anterioridad lo ha pretendido, segun lo hago presente á V. E. en el informe respectivo.

Esta prefectura pues no, encuenta embaraza en q. se las conceda a las que representan las parages de S'n Bernardino, Agua Caliente y Tinumba, que son los que ocupan actualm'te con sus bienes, se fuere del sup'r agrada se V. E.

San Juan Capistrano, Octubre 27, de 1841.

S. ARGUELLO,
NARCISSO BOTELLO, *S'rio.*

MONTEREY, 21 *de Junio, de* 1842.

Vista la peticion con que dar principio esta espediente los informes que preceden con todo lo demas que se tubo presente, y ser conbino de conformidad con las leyes, y reglamentos de la materia declaro á las ciudadanos, José del Carmin, José Maria Vicente Lugos, y Diego Sepulveda, duenas en propiedad del parage conocido con el nombre de S'n Bernardino, colindante al este con la sierra de Yacaipe, al oeste con el arrago y del cajon, y el serrito solo, al sur con las lomeras, al norte con la falda de la sierra. Librese el correspondiente despacho tomese razon en el libro respectivo, y dirigase este espediente a la ex'ma junta. El ex'mo señor gobernador hasi lo mando, decreto y firmo.

[SEAL.]

En atencion a la nota de V. S. f'ha 24 del pp'ro pr. lo cual, se nos nombre la comision para el exsome, y abaluo de las fineas q. existen en S'n Bernardino pasamos el 28 del mismo, a la mision de S'n Gabriel, segun disposition en d'ho orden donde nos dio el R. P. T. Tomas Estenaga, uno llamado Manus. Antonio para que nos manifestase las fineas pertenecientes al establecemiento, y habiendo seguido nostro camino en el mismo dia llegamos al punto destinado en el que nas fueron nostrados por el enbiado, arriba de una mesa paredes las cuales

forman catorce piesas, y un tras corral un horno de teja otro de cal, y una segura, en seguida despues de reconocidar estas, nos enseñomas abajo de la primera tres piesas, y un molino de piedra tirada que esde advirtir que ninguna presa tiene hecha todo algo redocado es quanto existe alli de la misión á cuyo reconocimiento no comparecia D'n José del Carmen Lugo, por que cuando le pasamos el aviso le habian robado su caballada los ladrones y se hallaba a pie, y creimos á muestra entender que no por esperar á dicho s'r deseriamos perder el tiempo en hacer, la bedurin, segun el informe circunstancia, de que se nos pide como la materia no estan profunda pues aparese demasiado claros no podemos mas que añador que como abandonamos estas fincas no pueden tener a la ves el merito devido, y salo si en manos de hombres colonidos su reformadas, en esta virtud por lo dicho, y nos consta de vista, á pesar de que nuestras conocimientas en ninguno ramo son adelantadas somos de senter que el valor en que se devan estimar las mencionadas fincas en S'n Bernardino sea el de tres cientos cinquenta pesos 350, precio que hemos considerado puesto á su estado, y entendiendo que en el particular hemos obrado con la mejor intencion sin que se crea interes ninguna.

Si en alga hemos faltado á nuestra comission esperamos nos disculpe, y reciba la sinceras protestas de nuestra consideration y respeto. Dios y libertad.

Ang., Feb'ro 2, de 1842.

TIBURCIO TAPIA,
BERNARDO YORBA.

ANG'LES, *Feb'y* 17, *de* 1842.

Agreguese esta abaluo al espediente respectivo para que obre los efectos convenientes.

AROUELLA,
JOSE R. ARGUELLO, *S'rio.*

[*Here follows a map.*]

Juan B. Alvarado, Gobernador Constitucional del Departamento de las Californias:

Por cuanto los ciudadanos José del Carmine, José Maria Vicente Lugos, y Diego Sepulveda, han pretendido para sus beneficios personales y el de sus familias el parage conocida con el nombre de San Bernardino, colindante al este con la sierra de Yucaipa; al oeste con el arroyo del Cajon, y el serrito Solo; al sur con las lomerias, y al norte con la falda de la sierra; practicadas previamente las diligencias

y averiguaciones concernientes, segun lo dispuesto por leyes y reglamentas, usando de las facultades que me son conferidas á nombre de la nacion Mexicana, he venido en concederles el terreno mencionada, declarandoles la propiedad de el por los presentes letras sugetandose á la aprovacion de la ex'mo junta departmental, y á las condiciones siguientes:

1o. Podran cercarlo sin perjudicar las travesias, caminos y servidumbres, la disputaran libre y esclusivamente distinandolo al uso ó cultivo que mas le acomode. Pero dentro de un año fabrican casa y estara habitada.

2o. Solicitaran del juez respectivo que les de posecion juridica, en virtud de este despacho por el cual se demarcaran, los linderos en cuyos limites pondran á mas las mojoneras algunos arboles frutales, ó silvestres de alguna utilidad.

3o. El terreno de que se hace mencion es de ocho sitios de ganado mayor, segun esplica el diceño que corre agregado al espediente respectivo. El juez que diere la posecion lo hará medir conforme á ordenanza quedando el sobrante que resulte á la nacion para los usos convenientes.

4o. Si contraviniere á estas condiciones perdera su derecho, al terreno y será denunciable por otro.

En consecuencia mando que teniendose por firme y valedero el presente titulo se tome razon, de el en el libro que corresponde, y se entreque á los interesados para sus resguardos y demas fines.

Dado en Monterey, á veinte y uno de Junio, de mil ochocientos cuarenta y dos.

OFFICE OF THE SURVEYOR GENERAL OF THE UNITED STATES FOR CALIFORNIA.

I, Samuel D. King, surveyor general of the United States for the State of California, and as such now having in my office, and under my custody, a portion of the archives of the former Spanish and Mexican territory in department of Upper California, do hereby certify, that the sixteen preceding and hereunto annexed pages of tracing paper, numbered from one to sixteen inclusive, and each of which is verified by my initials, (S. D. K.,) exhibit true and accurate copies of certain documents on file, and forming part of the said archives in this office.

In testimony whereof, I have hereunto signed my name, officially, and affixed my private seal, not having a seal of office, in the city of San Francisco, Cal'a, this 10th day of June, A. D. 1852.

SAM'L D. KING,
Surveyor Gen'l Cal.

Filed in office, August 31, 1852.

GEO. FISHER, *Sec'y.*

"*B.*"—*Translation of Espediente.*

Stamp Third, Two Reales.

Provisionally authorized by the maritime custom-house of the port of Monterey, in the department of the Californias, for the years 1840 and 1841.

(Sgd.) ANT. MA. OSIO.

(Sgd.) XIMENO.

[Custom-house Seal.]

Señor Prefect of this District:

Citizens José del Carmen, José Maria and Vicente Lugo, and Diego Sepulveda, who sign below, and the first representing the others, before your honor with due respect present myself and say, that in virtue of a permission given me by the superior government of the department, I went to establish myself in the rancho of San Bernadino, with the understanding that the persons who were preparing to go, at the time I made representation to his excellency the governor, would accompany me with the object of forming a colony in that rancho; but unfortunately, after that petition was granted, although the colonists were invited they almost all failed, and only my brother complied with this promise. In order to obtain the first object, I have endeavored to procure persons to form the establishment, and the greater number object to it. Then in virtue of my petition to the government, I went to settle in the aforesaid place, and built a house and corrals at the Agua Caliente; I and my brother put on it more than four thousand head of cattle, and in short I formed my settlement; under these circumstances the aforesaid Diego Sepulveda said that he would go to accompany me, locating himself at Yucaipo; as the place is included in San Bernadino I made no objection to this being done. On so doing I found that the magistrate, Don Ygnacio Palomares, wished to present it, and the said Sepulveda, as he told me, had to go to ask leave of said Señor Palomares; the latter having taken your honor by surprise, in order to get from you the permission to place on Yucaipo a part of his band of horses, it being by my consent that the said magistrate was allowed to put on and carry off his bands of mares from said place; and as I wished to carry out the favor which the superior government granted me, I endeavored to take these persons to form the colony. For this reason I told citizen Diego Sepulveda to settle there, and in effect he was building a wall house, but Señor Palomares in a manner prevented its being finished, sending me a letter as it were by authority, that the property we had in Yucaipo should be taken off, thus proving the fact that the place was not, as I have come to know he informed your honor, unoccupied, for it was occupied and in virtue of a superior permission. Having seen that in spite of my endeavors I cannot obtain persons who wish to settle as colonists, and noticing that individual possessions are asked for, as Señor Palomares has done, although he is owner of the place of San José, so much more pleasant and advantageous than that of Yacaipo

which he now asks for. I solicit for the four persons aforesaid, and who subscribe, the place of San Bernadino in fee, in extent eleven square leagues, a little more or less, which are contained in the map which I duly transmit, hoping that your honor, on placing this petition before the superior government, will be pleased to make your report in conformity with the justice which assists us, both because we are already settled in that place by superior permission for about two years, because we have the place now covered with more than six thousand head of large cattle, and because it has been my care to make new improvements in San Bernadino, where, in spite of difficulties and some danger, we have remained and continued the labors of agriculture. For this reason, señor prefect, I pray and beseech your honor to present this petition to the superior government, hoping that his excellency will accede to it; which favor I, together with the others, implore, protesting that which is necessary, &c.

City of nuestra Señora de los Angeles, October 27, 1841.

(Sgd.) JOSE DEL CARMEN LUGO.

At the request of Don José Maria and Don Vicente Lugo,

(Signed) JUAN BANDINE.

Most Excellent Sir:

In conformity with the request of him who is chief in this representation, I send it up to the superior hands of your excellency, with the report which this prefecture believes to be just.

The prefecture in my charge understands that the Señores Lugo established themselves in San Bernadino with permission from the departmental government, granted in the character of a colony, in virtue, as I understand it, of their having offered to establish a town in those lands, but as this was not done, (for it is seen that up to this time those who represent have not complied with their offer,) it should not now be understood that Yucaipa property belongs to the place of San Bernadino in case the latter is granted for a rancho and not for a town, because it is independent of it, being distant about three leagues. They refer to the fact that the magistrate, Don Ignacio Palomares, is owner of the place San José, without reflecting that they themselves actually possess a large portion of land in the neighborhood of the city of Los Angeles, the place of Santa Anna of the Chino, that of San Bernadino and the Agua Caliente, which are of great extent, so that these lands being sufficient for the property of the Se'ores Lugo, it is necessary that other persons, cattle raisers, should occupy those which they can without prejudice to any person. They also say that the magistrate, Palomares, in virtue of his authority, ordered them to take away from Yacaipo the cattle which were there; this I believe he did, not by the authority which he now represents, but by the right to that place derived from the provisional grant by this prefecture that he might place there his cattle for the present year, on account of the scarcity of pastures in San José, which were all burnt, and in Yacaipo they abounded as if

there was no one to consume them. For the same reason Palomares permitted Diego Sepulveda to put his cattle on Yacaipo, but he (Sepulveda) went on to build a wall house, and this was what Palomares presented, as I am informed; notwithstanding the foregoing, your excellency will be pleased to decide as may be your superior pleasure, for this prefecture believes that if it should not explain itself in this manner the effect would be to prevent others from enjoying the benefits which nature has supplied.

I make this short manifestation for the sake of justice, as it is my duty, and to bring to light this class of rivalry between persons equally deserving of being attended to; for if Palomares occupies the place of Yacaipo it is in virtue of the aforesaid permission, and he has previously asked for it in fee, as I represented to your excellency in the respective report. This prefecture then finds no objection to there being granted to those who represent the places of San Bernadino, Agua Caliente and Tinumba, which are those which they actually occupy with their property, if it should be your excellency's superior pleasure.

San Juan Capistrano, Oct. 27, 1841.

(Sgd.) ARGUELLO.

(Sgd.) NARCISSO BOTELLO, *Sec'y.*

MONTEREY, *June* 21, 1842.

Having seen the petition with this espediente commences, the reports which precede, and all other information which was presented and deemed proper to be considered in conformity with the laws and regulations on the matter, I declare the citizens José del Carmen, José Maria and Vicente Lugo, and Diego Sepulveda, owners in fee of the place known by the name of San Bernadino, bounded on the east by the Sierra of Yucaipo, on the west by the Arroyo del Cajon an el Serrito Salo, on the south the hills, on north by the foot of the sierra.

Let the corresponding title be issued, let note be made in the proper book, and let this espediente be directed to the most excellent junta.

His excellency the governor thus ordered, decreed, and signed.

[Seal of the prefecture.]

In compliance with your excellency's note, dated the 24th of last month, by which we were appointed a commission to examine and appraise the buidings which exist in San Bernadino, we went on the twenty-eighth of the same month to the mission of San Gabriel, as directed in said order, where the reverend father friar Tomas Estenego gave us a person called Marcus Antonio, to show us the buildings pertaining to the establishment, and going on our way we arrived on the same day to the place of destination, and it there were shown to us by the person sent on a "mesa," (plain,) some walls, which form fourteen rooms and a back yard, one tile kiln, and a lime kiln, and a ditch for irrigation; in continuation, after examining these, he showed us lower down than the first, three rooms and a mill of stone in ruins, observing that no room is roofed, and all somewhat dilapidated; this

is everything belonging to the mission which exists there; at the examination of which Don José del Carmen Lugo did not appear, because when we gave him notice the robbers had stolen his horses, and he was afoot, and in our opinion, we thought that we ought not by waiting for said señor to lose his time in making the examination. As to the detailed report which is requested of us, as the matter is not very profound, it appearing to us very simple, we can do no more than add, that these buildings being abandoned, they cannot at this time have their proper value, and could only be repaired in the hands of laborious men. In virtue of this, for the foregoing, and what we know from having seen it, although our knowledge is not great in any branch, we are of opinion that the value in which the aforesaid buildings in San Bernadino ought to be estimated, should be three hundred and fifty (350) dollars, a sum which we have considered just in the condition they are in, understanding that in this matter we have acted with the best intentions, without having any interests. If we have in anything failed in our commission, we hope your honor will excuse us, and receive the sincere protestations of our consideration and respect. God and Liberty!

(Signed) TIBURCIO TAPIA,
(Signed) BERNADO YORBA.

Angeles, February 2d, 1842.

ANGELES, Feb'y 17, 1842.

Let this valuation be attached to the respective espediente, that it may serve the proper purposes.

(Signed) ARGUELLO,
(Signed) JOSE R. ARGUELLO,
Secretary.

I certify the foregoing to be a true and correct translation from the original Spanish document on file in this office, in case No. 316, José Carmen Lugo et al. GEO. FISHER, *Sec'y.*

Filed in office, August 31st, 1852.

(Signed) GEO. FISHER, *Sec'y.*

S'or Juez de 1a Instancia:

José del Carmine Lugo de esta vecindad, por si ya nombre de los demas socias contenidas en el adjunto titulo, ante V. con el respeto debido compareser, y digo: Que habiendo obtenido del gobierno departmental la concesion en propiedad del parage llamado S'n Bernardino, solicito de V. se sirva darme la posecion juridica de d'hos terrenos que aseguro el derecho a ellos y conforme se previene en el referido despacho que debidamente acompaño. Por tanto, A. V. suplico acceda a esta solicitud hacienda como en ella se espresa por ser de justicia que pido. Tuvo lo necessario, &a., siriendose igualmente admitirme la en este papel comun pr. no haber del sellado respetivo.

Angeles, Julio 11, de 1842.

JOSE DEL CARMEN LUGO.

José del Carmen Lugo et al.—San Bernardino.

Ms 196 29

ANGELES, *Julio* 11, *de* 1842.

Por presentado y admitido en cuanto ha lugar a d'ro como lo pede la parte y con arreglo a lo dispuesto por la superioridad, asi yo, Manuel Dominguez, juez de paz y de 1a instancia, decrete, mande y firme, con los de ass'a, segun d'ros.

MANUEL DOMINGUEZ.

Ass'a: YGNACIO CORONEL,
Ass'a: RAYMUNDO ALANIS.

(Here follows the map.)

Posecion del Rancho de San Bernardino.—Año de 1842.

Sello Tercero, Dos Reales.

Habilitado provisionalmente por la aduana maritima del puerto de Monterey, en el departamento de las Californias, para los años de mil ochocientos cuarenta y mil ochocientos cuarento y uno.

ALVARADO. ANTONIO MA. OSIO.

Rehabilitado por la misma, para el año de mil ochocientos cuarenta y dos.

ALVARADO. ANTONIO MA. OSIO.

[Custom-house Seal.]

El que suscribe secretario del gobierno del departamento de las Californias, certifico que el diceno que demuestra a la vuelta es conforme con el original que eciste en la s'ria de mi cargo hagregado en espediente respetibo.

Monterey, 22 de Junio, de mil ochocientos cuarenta y dos.

MANUEL JIMENO.

Sello Primero, Seis Pesos.

Habilitado provicionalmente por la aduana maritima de Monterey, para los años de 1842 y 1843.

ALVARADO. ANT'O MARIA OSIO.

[SEAL.]

Juan B. Alvarado, Gobernador Constitutional del Departmenta de las Californias:

Por cuanto los ciudadanos José del Carmin, José Maria, Vicente Lugos, y Diego Sepulveda; han pretendido para sus beneficios personales y el de sus familias el parage conocido con el nombre de San Bernardino, colindante al este con la Sierra de Yacaipe, al oeste con el Arroyo del Cajon y el Cerrito Soló, al sur con las lomerias; practicadas previamente las diligencias y averiguaciones concernientes, segun lo dispuesto por leyes y reglamentos de la materia, usando de las facultades que me son conferidas a nombre de la nacion Mejicana, he venido—

[*For map see original, page* 29.]

mismo linea se tiro el primeo cordel de sin a norte, y se midieron y contaron tuere mil varas que remataron en la falda de la sierra: De este punto y cambiande de direccion dirigiendo se para el oriente por la falta de la (corregida) sierra se contaron, y midieron treinta y cuatro, mil setecientos cuarento varas, que remataron en el serrito de Yucaipe, esto es en la misma linea pegada a la falda de la sierra, de aqui mismo se cambio de rumbo dirigiendo el cordel del norte, al su oeste y se contaron, midieron quince mil varas que remataron en la esquina de una loma donde se halla un encima, de aqui se cambio de rumqo dirigiendo el cordel al oeste, y se midieron, y contaron trenta mil quinientos cincuenta varas que remataron donde se comenzo esto dos estos puntos que se marcaron con arreglo al diseño, semandaron poner mojoneras para la claridad de las pertenecias del sitio, con lo que se concluyeron las medidas del parage yo nombrado á satisfaccion de las partes dando se por posecionadas, lo que asiento por dilgencia que autorese y firme, con los de mi asistencia, segun d'ro.

MANUEL DOMINGUEZ.

Asistencia: YGNACIO CORONEL,
Asistencia: FRANCISCO XAVIER ALVARADO.

Angeles, Agosto 5, de 1842.

Digne testimonio á las partes de las presentes diligencias que se hallan concluidas en este papel comun por falta de sellado.

Asi yo el juez que suscribe decrete, mandé y firme, con los de asistencia, segun d'ro.

MANUEL DOMINGUEZ.

Asistencia: YGNACIO CORONEL,
Asistencia: FRANCIS'O XAVER ALVARADO.

Nota.—En la mismo f'ha se libre el testimonio respectivo lo que rubrique para constancia.

(Rubrique.)

Concuerda con su original á que me remito, y se halla en el libro de instrumentos publicos del presente año del que se saco fiel, y legalmente corregiendose, y confrontandose en estas siete fojas de papel comun, por no haber del sellado. En testimonio de verdad.

MANUEL DOMINGUEZ.

Ass'a: YGNO. CORONEL,
Ass'a: FRAN'CO XAVIER ALVARADO.

Filed in office, Sep'r 3d, 1853.
(Signed) GEO. FISHER, *Sec'y.*

Case No. 136, José del Carmin Lugo et al.—San Bernardino.

Exhibit No. 1 annexed to the deposition of Abel Stearns, taken before Commissioner Hiland Hall.

C.—Translation of Title and Juridical Possession.

To his honor the Judge of 1st Instance:

I, José del Carmen Lugo, of this vicinity, for myself and in the name of the other partners referred to in the annexed title, before you

with due respect appear and say, that having obtained from the departmental government the grant in fee of the place called San Bernadino, I request that you be pleased to give me the juridical possession of said land, which may make sure the right to them, and in conformity with the provisions of the title referred to, which I duly transmit herewith.

Wherefore I pray you to accede to this petition, doing that which is expressed in it; and as it is justice which I ask for, I swear what may be necessary, &c., being pleased to admit this from me on common paper, for want of that of the proper stamp.

Angeles, July 11th, 1842.

(Signed) JOSE DEL C. LUGO.

ANGELES, *July* 11*th*, 1852.

Presented and admitted as well as the law allows, as the party requests, and in conformity with that decided by the superior authority. Thus I, Manuel Dominguez, justice of the peace and of first instance, decreed, ordered and signed, with those of assistance, according to law.

(Signed) MANUEL DOMINGUEZ.

Asst'g witnesses:

(Signed) YGNACIO CORONEL,

(Signed) RAYMENDO ALARES.

Stamp 1st, Six Dollars.

Provisionally authorized by the maritime custom-house of Monterey, for the years 1842 and 1843.

(Signed) ALVARADO,

(Signed) ANTONIO MA. OSIO.

[Custom-house Seal.]

Juan B. Alvarado, Constitutional Governor of the department of the Californias:

Whereas, citizens José del Carmen, José Maria and Vicente Lugo and Diego Sepulveda, have for their own personal benefit and that of their families petitioned for the place known by the name of San Bernadino, bounded on the east by the Sierra of Yucaipo; on the west by the Arroyo del Cajon and the Cerrito Solo; south by the hills, and north by the slopes of the Sierra; the proper measures and examinations being previously made as required by laws and regulations, using the powers conferred on me, in the name of the Mexican nation, I have granted them the aforesaid land, declaring to them the ownership of it by this present letters, subject to the approval of the most excellent departmental junta, and to the following conditions:

1st. They may enclose it without prejudice to the crossings, roads and servitudes, and enjoy it freely and exclusively, making such use or cultivation of it as may best suit them, but within one year they build a house on it and inhabit it.

2nd. They shall request the proper magistrate to give them judicial possession, in virtue of this title, by whom the boundaries will be marked

out, in the limits of which, besides the bounds, he shall place some fruit or forest trees of a useful character.

3rd. The land of which mention is made is eight square leagues, as shown by the map which is attached to the respective espediente. The magistrate who may give the possession will cause it to be measured in conformity with the ordinance, leaving the surplus which may result to the nation for its convenient uses.

4th. If they contravene these conditions they will lose their right to the land, and it will be subject to denouncement by another person. In consequence I order, that this title being held as firm and valid, note be made of it in the proper book, and it be delivered to the persons interested for their security and other purposes.

Given in Monterey, on the twenty-first of June, eighteen hundred and forty-two.

(Signed) JUAN B. ALVARADO,
(Signed) MANUEL JIMENO, *Sec'y.*

Note has been made of this title in the book of entries of grants of vacant lands in folio 13, over.

(Signed) JIMENO.

His excellency the governor has ordered that note be made of this title, in the prefecture of the second district.

(Signed) JIMENO.

SAN JUAN, *July 6th*, 1842.

Note has been made of this superior dispatch in the proper book, kept in this prefecture, at folio .

(Signed) ARGUELLO.

In the city of Los Angeles, of the department of the Californias, on the third day of the month of August, one thousand eight hundred and forty-two, in compliance with the request made by the partners, Don José del Carmen, Don José Maria, Don Vicente Lugo, and Don Diego Sepulveda, that there be given to them the corresponding possession of the place and rancho called San Bernadino, which lands they occupy with their cattle, and were granted to them by his excellency the governor of this department, the title or dispatch of which, together with a copy of the map, they have presented to this court; I with the witnesses of my assistance will go to the aforesaid place, and proceed to give the possession referred to; previously summoning the colindantes, conforming in continuation to the map and title referred to, which has been given them by the departmental government, with date July twenty-first, eighteen hundred and forty-two.

I, citizen Manuel Dominguez, 1st justice of the peace of the aforesaid city, and (judge) of first instance at the head of the second district, thus provided, ordered and signed, with those of my assistance, with

whom I act in virtue of my office, for want of a notary public; on this common paper, for want of stamped. I certify.

(Signed) MANUEL DOMINGUEZ.

Ass't witnesses:

(Sgd.) FRANCISCO JAVIER ALVARADO,

(Sgd.) IGNACIO CORONEL.

On the fourth of August of the present year, being in the neighborhood of San Bernadino, I passed official notice to the colindantes, Don Tiburcio Tapia and Don Juan Bandina, making known to them the object for which I was going to San Bernadino aforesaid, as I was going to remeasure it and put in possession citizens José del Carmen, and Vicente and José Maria Lugo, as also Don Diego Sepulveda, of which I make official note which I authenticate and sign, with those of my assistance, according to law.

(Signed) MANUEL DOMINGUEZ.

Ass't witnesses:

(Sgd.) IGNACIO CORONEL,

" FRANC'O JAVIER ALVARADO.

In the rancho of San Bernadino, on the same date as that of the foregoing act, I appointed two rope-bearers, who were Ramon Benitis and Jesus Delgado, whose signatures are omitted because they did not know how to write; these individuals accepted under the oath which they made in favor of law, by which they promised to discharge faithfully and legally the duties of their office; all which I authenticate and sign, according to law.

(Signed) MANUEL DOMINGUEZ.

Assisting witnesses:

IGNACIO CORONEL,

FRANCISCO JAVIER ALVARADO.

On the same day, month, and year, being at the Cerrito Solo, which is part of San Bernadino, where I went on the summit for the purpose of observing the formation of the land, and to commence the measurements in conformity with the map, giving the corresponding possession to the Señores José del Carmen, José Maria, Vicente Lugo, and Diego Sepulveda, all the legal requisites being previously performed, there being before me the assisting witnesses, and the rope-bearers, I caused to be measured a cordel which contained fifty varas, to the ends of which some stakes of wood were tied, and by my direction we went down to the plain, and from the boundary of Don Juan Bandine, who made no objection, neither did Tibercio Tapia, who is on the same line; the first cordel was drawn from south to north, and there were measured and counted thirteen thousand varas, which ended at the slope of the sierra; from this point, changing the direction, going east along the slope of the hills, there were counted and measured thirty-four thousand seven hundred and fifty varas, which ended at the Cerritas de Tucaipa, that is in the same line, close to the slope of the

sierra; from this place the direction was changed, and directing the cordel from the north to the southwest, there were counted and measured fifteen thousand varas, which ended at the angle of a hill where there is a live-oak tree; thence the course was changed, directing the cordel west, there were measured and counted thirty thousand five hundred and fifty varas, which ended at the point of beginning; at all these points, which were designated according to the map, it was ordered that bounds be placed for the clearness of the lands belonging to the place, with the measurements of the place named, were concluded to the satisfaction of the parties, they considering themselves in possession, which I note down officially, and authenticate and sign it with those of my assistance, according to law.

(Sgd.) MANUEL DOMINGUEZ.

Ass't witnesses:

(Sgd.) YGNACIO CORONEL,
" FRANCISCO JAVIER ALVARADO.

ANGELES, *August 5th*, 1842.

Let there be given to the parties a testimony of the present record, which are now finished on this common paper for want of stamped. This, I, the magistrate who subscribed, decreed, ordered and signed, with those of assistance, according to law.

(Signed) MANUEL DOMINGUEZ.

Assisting witnesses:

(Signed) YGNACIO CORONEL,
" FRANCISCO JAVIER ALVARADO.

Note.—On the same date the respective testimony was issued, and in testimony I sign in rubric.

The foregoing agrees with its originals, to which I refer, and which is found in the book of public instruments of the present year, from which this was copied faithfully and legally, having been compared and corrected, on these seven leaves of common paper for want of stamped. In testimony of truth.

(Signed) MANUEL DOMINGUEZ.

Assisting witnesses:

(Sgd.) YGNACIO CORONEL,
" FRANCISCO J. ALVARADO.

I certify the foregoing to be a true and correct translation from the original Spanish document on file in this office, in case No. 316—José del Carmen Lugo et al.

(Signed) GEO. FISHER, *Sec'y*.

Filed in office, Aug. 31st, 1852.

GEO. FISHER, *Sec'y*.

830

Opinion of the Board.

U. S. Land Commission for California, session at San Francisco.

JOSE DEL CARMEN LUGO als., claimants, vs. THE UNITED STATES. } No. 316.—"San Bernadino."

Opinion by H. J. Thornton.

The claim in this case presented is founded on a grant made by Juan B. Alvarado, governor of California, on the 21st of June, 1842, in virtue of the decree of the 18th of August, 1824, and of the ordinance of the 21st of November, 1828, of the Mexican government, to the claimants for eight squares leagues of land. It does not appear that the governor ever applied for or obtained the approval of the departmental assembly, of this grant. On the 5th of August, 1842, in the usual form, judicial measurement and delivery of possession of the land was made. There was a house built on the place, and occupied in the year 1842; it was stocked largely with cattle and horses, and has ever since that time been in the possession of the claimants and those holding under them. The genuineness of the grant and the authority of the governor who made it are not controverted; all the facts above stated are established in the case, by a transcript regularly authenticated from the public archives of the former governor of the country, by original documentary evidence, and the testimony of witnesses whose depositions are on file. All the objections made to a confirmation of the claim have been fully considered and overruled by this board in the case of and of others hitherto decided, and in accordance with the principles of decision laid down for our government in the 11th section of the act of the 3rd of March, 1851. We think the claim is valid, and proceed to enter a decree of final confirmation, Commissioner Hall concurring in the result.

HARRY J. THORNTON.

This board, upon full consideration of the various grounds affecting the validity of the said claim, having come to the conclusion that the same is valid; therefore, now proceed to make, and does hereby make, the following decree of final confirmation, viz: It is decreed that the said claim be confirmed to the claimants, to the extent and quantity of eight square leagues or 8 sitios de ganado mayor, and for no more, being the same land described in the grant and espediente referred to therein, and of which possession has been had under the said grant: Provided that the said quantity of land granted, and now here confirmed, be contained within the boundaries called for in the said grant and map to which the grant refers; and, if there be less than the said above named quantity within the said bounds, then we confirm to the claimants that less quantity, it being apparent that said quantity ex-

ceeds the prescribed by the ordinance of the 21st of November, 1828.

Given under our hands this 21st day of Feb'y, 1853.

HILAND HALL,
HARRY J. THORNTON, *Commissioners.*

Filed in office, Feb'y 21, 1853.

(Signed) GEO. FISHER, *Sec'y.*

OFFICE OF THE BOARD OF COMMISSIONERS
To ascertain and settle private land claims in the State of California.

I, George Fisher, secretary to the board of commissioners to ascertain and settle the private land claims in the State of California, do hereby certify the foregoing forty-six pages, numbered from 1 to 46, both inclusive, to contain a true, correct, and full transcript of the records of the proceedings and of the decision of the said board, of the documentary evidence, and of the testimony of the witnesses upon which the same is founded, on file in this office, in case No. 316 on the docket of the said board, wherein José del Carmen Lugo et al. is the claimant against the United States, for the place known by the name of "San Bernardino."

In testimony whereof, I hereunto set my hand and affix my private seal, (not having a seal of office,) at San Francisco, California, this twenty-first day of June, A. D. 1854, and of the independence of the United States of America the seventy-eighth. [SEAL.]

GEO. FISHER, *Sec'y.*

UNITED STATES DISTRICT COURT,
Southern district of California.

CLERK'S OFFICE, LOS ANGELES.

I, Charles E. Carr, clerk of the district court of the United States for the southern district of California, do hereby certify that the foregoing forty-six pages, numbered from 1 to 46, both inclusive, contain a full, true, and correct copy of transcript in case No. 12, filed in my office, wherein José del Carmine Lugo et al. are appellees, and the United States are appellants, for "San Bernardino."

In testimony whereof, I have hereunto set my hand and affixed the seal of said court, at Los Angeles, California, this 17th day of March, A. D. 1856. [SEAL.]

C. E. CARR, *Cl'k,*
By O. MORGAN, *Dep'y.*

DISTRICT COURT OF THE UNITED STATES,
Southern district of California.

CLERK'S OFFICE, LOS ANGELES COUNTY.

JOSE DEL CARMIN LUGO et al., appellees, ads.
THE UNITED STATES, appellants.
} Docket No. 12. (Transcript No. 316.)

Be it remembered, that on the day of , A. D. 185 , in the district court of the United States for the southern district of Cali-

fornia, the following proceedings were had, to wit: a duly certified transcript of the proceedings and decision of the commissioners to ascertain and settle the private land claims in the State of California, when sitting as a board, in the case wherein José del Carmine Lugo et als. are the claimants against the United States, for the place named "San Bernardino," was received, and filed and docketed with No. 12 on the docket of said court, and is as follows, to wit:

(Vide page 1 of this Transcript.)

LOS ANGELES, *Nov. 7th*, 1854.

In same case, notice of appeal from the decision of the commissioners was filed.

(Vide page 1.)

LOS ANGELES, *Dec. 9th*, 1854.

In the same case, the petition of the United States for review was filed.

(Vide page 2.)

LOS ANGELES,

In the same case, stipulation for time to answer was filed.

(Vide page 7.)

LOS ANGELES, *Feb'y 28th*, 1855.

In the same case, stipulation for further time to answer was filed.

(Vide page 7.)

LOS ANGELES, *Feb'y 28th*, 1855.

In the same case, the answer of claimants was filed.

(Vide page 8.)

LOS ANGELES, *Octo. 11th*, 1855.

In the same case, notice of hearing was filed.

(Vide page 10.)

LOS ANGELES, *Oct. 19th*, 1855.

In the same case, translation of certificate attached to map was filed.

(Vide page 11.)

LOS ANGELES, *Jan'y 29th*, 1856.

In the same case, the decree of the court confirming the claim was filed.

(Vide page 12.)

Los Angeles, *March 7th*, 1856.

In the same case, order of appeal to Supreme Court of the United States filed.

(Vide page 13.)

Notice of Appeal.

Office of the Attorney General,
Washington, 11*th September*, 1854.

José del Carmen Lugo et al.
vs.
The United States.

You will please take notice that in the above case, decided by the commissioners to ascertain and settle private land claims in the State of California, in favor of the claimant, and a transcript of the proceedings in which was received in this office on the 10th day of June, 1854, the appeal in the district court of the United States for the southern district of California will be prosecuted by the United States.

C. CUSHING,
Attorney General.

Filed Nov. 7th, 1854.

C. E. CARR, *Cl'k.*

Petition.

In the District Court of the United States for the southern district of California.

José del Carmen Lugo et al.
vs.
The United States.
No. 316.

To the honorable Isaac S. K. Ogier, judge of the district court of the United States for the southern district of California.

The petition of Pacificus Ord, (of Monterey county,) attorney of the United States for the southern district of California, who petitions in this behalf for the United States, and being present here in court in his proper person, in the name and behalf of the United States, represents as follows:

That heretofore, to wit, on or about the 31st day of August, A. D. 1852, José del Carmen Lugo, José Maria Lugo, Vicente Lugo and Diego Sepulveda, presented a petition to the commissioners to ascertain and settle the private land claims in the State of California, representing in substance that on the 21st day of June, 1842, Juan B. Alvarado, governor of California, by virtue of authority in him vested, granted to them a tract of land called San Bernadino, situate in the then county of Los Angeles, (now the county of San Bernadino,) containing eight square leagues, with the boundaries described in the grant and corresponding map, as shown in the expediente, a certified copy of which

was submitted therewith; that the said grant was subsequently duly approved and the possession given in due form; that they have been, for more than ten years, and were then in the quiet, peaceable, and undisputed possession and occupation of the said tract of land; that they know of no conflicting claim; that they relied for confirmation of title upon the original title-papers issued to them by the government, and upon the records and minutes in the archives in the possession of the surveyor general, and upon such other and further proofs as they might be advised necessary, and praying for confirmation of the same.

Your petitioner further represents, that thereafter, to wit, on the 21st day of February, 1853, the said commissioners confirmed, by final decree, the said claim of the said José del Carmin Lugo, José Maria Lugo, Vicente Lugo, and Diego Sepulveda, to the extent and quantity of eight square leagues, and no more, being the same land described in the grant and expediente referred to therein, and of which possession has been had under the said grant.

That thereafter, to wit, on the 27th day of June, A. D. 1854, a duly certified transcript of the said decree and proceedings, and the papers and evidence on which it was founded in said cause, was filed in the office of the clerk of the district court of the United States for the southern district of California, and marked No. 316, reference to which it is prayed may be had and made a part of this petition. That on the 10th day of June, A. D. 1854, the honorable Caleb Cushing, Attorney General of the United States, received a duly certified duplicate of said transcript of said final decree and proceedings of said commissioners in said cause, (No. 316,) and the papers and evidence on which said decree was founded.

That thereafter, to wit, on the 7th day of November, A. D. 1854, the said Attorney General of the United States filed, or caused to be filed, on behalf of the United States, a notice with the said clerk of said district court for the southern district of California, that the appeal in said cause of José del Carmen Lugo, José Maria Lugo, Vicente Lugo, and Diego Sepulveda, vs. The United States, from the decision of said commissioners to ascertain and settle the private land claims in the State of California, in the district court of the United States for the southern district of California, would be prosecuted by the United States.

Your petitioner further represents, that the said land claimed as aforesaid is within the jurisdiction of this honorable court.

And your petitioner further represents and alleges, that the said claim of José del Carmen Lugo, José Maria Lugo, Vicente Lugo, and Diego Sepulveda, for said land claimed and confirmed by said commissioners as aforesaid, is invalid, and said decree of confirmation erroneous, on the following grounds:

1. That the said José del Carmen Lugo, José Maria Lugo, Vicente Lugo, and Diego Sepulveda, show no valid title to the said land claimed by them as aforesaid, and it is denied that they have any.

2. That the said claimants have no title or interest in the land

claimed, they having sold the said land to the Mormons, and quit the possession of the same in October or November, A. D. 1851.

3. That at the date of the said alleged grant, the said land claimed as aforesaid was occupied by the missions of California, and particularly by the mission of San Gabriel, with valuable houses, mills, and other improvements thereon.

4. That the grant was not made in accordance with the colonization law of the 18th of August, A. D. 1824, nor according to the regulations of the 21st of November, A. D. 1828, in this, that the title was issued and signed by the political chief before the approbation of the territorial deputation or departmental assembly; and it was not so approved.

6. That if the grant is an empresario or contractor grant, then it does not appear that the grantees obligated themselves to settle twelve families on the land; and it is denied that they so obligated themselves.

7. That it is not stated in the said grant that it was made in entire conformity to the disposition of the laws.

8. That the said grant was made by said Governor Alvarado upon a consideration in money ($800) or its equivalent, which was not in accordance with, and was contrary to, law.

9. That the second condition of said grant was not performed as required; that the magistrate did not measure the land in accordance with the terms of the grant.

10. That the judicial measurement and possession was unauthorized by the magistrate, the title presented to him by claimants not showing the approval of the deputation.

11. That said alleged act of judicial possession and measurement by Manuel Dominguez was not upon sealed paper; that in the measurement of the land he did not proceed according to the ordinance or law, nor in accordance with the calls of the grant and map referred to therein; that the said alleged grant is for the place called San Bernardino, of the extent of eight square leagues, a little more or less, (poco mas ó minos,) as explained by the map which belongs to the expediente; and the said Dominguez, in giving possession, violated the terms of said grant, and exceeded his authority by measuring and giving possession to said claimants of a tract of land greatly exceeding in extent eight square leagues of land, a little more or less; that said tract of land, of which judicial possession was given to said claimants by said Dominguez, greatly exceeds in extent eleven square leagues.

12. That the conditions of the said grant were not performed by the alleged grantees; that there is no evidence that they built a house within one year after the date of the grant, and that it was occupied and the land cultivated.

13. That there is no evidence that the said Manuel Dominguez was a judge at the time of the alleged act of possession, having lawful authority to make the judicial measurement, and give the possession of the land granted by Governor Alvarado, as aforesaid; and it is denied that he was such judge with such authority or jurisdiction in such cases.

14. That the description of the land in said alleged grant and map is vague and uncertain; and that the description of the land in said alleged act of judicial measurement and possession is also vague and uncertain.

Wherefore, the said Pacificus Ord, attorney of the United States for the southern district of California, for and in behalf of the United States, by reason of the premises, and the laws and statutes in such case made and provided, prays that the said José del Carmen Lugo, José Maria Lugo, Vicente Lugo, and Diego Sepulveda, or their attorney, may be served with a copy of this petition, and that this honorable court will review the said decision or final decree of confirmation of said commissioners to ascertain and settle the private land claims in the State of California, and decide on the validity of the said claim of said José del Carmen Lugo, José Maria Lugo, Vicente Lugo, and Diego Sepulveda, for said land claimed and confirmed as aforesaid, and that the same may be decreed invalid; and all such other orders, judgments or decrees as may be just, with costs and general relief.

P. ORD,
Att'y of the U. S. for the southern district of Cal'a.

Filed Dec. 9th, 1854.

C. E. CARR, *Cl'k.*

Stipulation that answer to petition for review may be made and filed at or previous to 18th February.

UNITED STATES
vs.
JOSE DEL C. LUGO, VICENTE LUGO, JOSE MARIA LUGO and DIEGO SEPULVEDA.

In the U. S. Dist. Court for the southern district of California.

Petition for review of a decree of final confirmation, of the U. S. land commission, of a tract of land called "San Bernadino."

It is hereby agreed and stipulated by Pacificus Ord, U. S. district attorney, on behalf of the United States, that the answer of the defendants or any one of them, in the above cause, may be filed at any time before or on the 15th February next, with the same effect and force as if filed within ten days after the service of summons and petition on them.

P. ORD,
J. LANCASTER BRENT,
For Def'ts.

Stipulation for time to answer.

Upon the suggestion of J. L. Brent, of counsel for the defendants, that J. R. Scott, esq., an attorney of said court, is absent, and that he is principal counsel for said parties in interest in said claim, and that said Scott is now probably in attendance on the supreme court of said State at Sacramento:

It is stipulated, in order to afford the parties time to consult with the said Scott, that the time of answering be extended until the first March next.

P. ORD,
Att'y of U. S. S. D. C.
J. LANCASTER BRENT,
Att'y for Def'ts.

Filed in office, Feb'y 28th, 1855.

C. E. CARR, *Cl'k.*

Answer.

UNITED STATES, appellants,
vs.
JOSE DEL CARMEN LUGO et al.

In the U. S. District Court for the southern district of California.

José de Carmen Lugo, José Maria Lugo, Vicente Lugo, and Diego Sepulveda, defendants in the above cause, for answer to said petition, say, that on the 21st June, 1842, Juan B. Alvarado, constitutional governor of the Californias, in pursuance of authority in him vested by law, granted in fee simple to the said defendants a tract of land situate in Los Angeles county, in the southern district of the State of California, and known by the name of San Bernadino, bounded as follows, to wit: on the east by the Sierra of Yucaipa, on the west by the Arroyo of the Cajon and the "Serrito Solo," on the south by the lomerias, and on the north by the slope of the range of mountains, as explained by a map, containing eight square leagues, a little more or less; that afterwards, to wit, in the month of August, 1842, a judicial survey was had of the same premises, and possession thereof formally delivered to these defendants according to specific metes and bounds, which said possession and survey was given and made by Manuel Dominguez, an officer of the Mexican government, competent and authorized to give said possession and make said survey; that previous and subsequent to said grant, these defendants have been in possession of the said granted premises, and they have faithfully complied with the conditions of their said grant, which said grant was afterwards approved by the departmental assembly.

These defendants further aver, that afterwards, to wit, on the 31st August, 1852, *the* presented their petition claiming said land to the commissioners appointed under the provisions of an act of Congress, entitled "An act to ascertain and settle the private land claims in the State of California," while sitting as a board, and that these defendants further submitted to said commissioners such documentary evidence and testimony of witnesses as they relied on, and that on the 21st February, 1853, the said commissioners decided on the validity of their said claim, and confirmed the same by their final decree.

And these defendants further answering the petition filed by plaintiffs, denies each and all the allegations therein, in the same manner and

as specifically as if each of said allegations was herein written and denied, excepting such as are or may be admitted herein.

These defendants further aver, that the said final decree of the said commissioners is valid, that their claim to the above described land is valid, and should be confirmed; and they hereby especially refer to the transcript of the proceedings of the said commissioners mentioned in the petition of plaintiffs, and make the same a part of this answer.

And these defendants, further answering, pray for general or such other and further relief as the nature of their case may require, and that they be hence dismissed with their costs, &c.

J. LANCASTER BRENT, *Att'y*
for Jose del Carmen Lugo, Vicente Lugo, and Diego Sepulveda.

MYRON MORTON,
Att'y for defendant, José Maria Lugo.

Filed Feb'y 28, 1855.

C. E. CARR, *Cl'k.*

In the District Court of the U. S. for the southern district of California.

JOSE DEL CARMEN LUGO et al., appellees, ads.
THE UNITED STATES, appellants.
} No. 12—For "San Bernadino."

Notice of Hearing.

To the above named Appellees or their Attorneys:

Take notice that the above entitled cause will be brought to a hearing by the United States, on Friday the 17th day of October, A. D. 1855, or as soon thereafter as the same can be heard by the court.

Los Angeles, October, 11, 1855.

P. ORD,
U. S. District Att'y.

Filed Oct. 11th, 1855.

C. E. CARR, *Cl'k.*

In the United States District for the southern district of California.

JOSE DEL C. LUGO et al., appellees, ads.
THE UNITED STATES, appellants.
} Case No. 12.—Transcript 316. "San Bernadino."

Translation of Certificate to Map.

Translation of Certificate to Map, (See Transcript, page 32.)

Third Stamp, Two Reales.

Authorized provisionally for the maritime custom-house of the port of Monterey, in the department of the Californias, for the years one thousand eight hundred and forty and one thousand eight hundred and forty-one.

ALVARADO. ANTONIO MA. OSIO.

Revalidated for the same, for the year one thousand eight hundred and forty-two.

ALVARADO. ANTONIO MA. OSIO.

[Seal of the Custom-house.]

He who subscribed, secretary of the government of the department of the Californias, certify that the map which appears on the reverse is in conformity with the original, which is in existence in the secretary's office, of my charge, attached to the proper espediente.

Monterey, 22nd of June, one thousand eight hundred and forty-two.

MAN'L JIMENO.

Filed Oct. 19th, 1855.

C. E. CARR, *Cl'k*,
By J. W. ROSS, *Dep.*

In the United States District Court for the southern district of California.

JOSE DEL CARMEN LUGO, VICENTE LUGO, DIEGO SEPULVEDA AND JOSE MARIA LUGO, appellees, ads. THE UNITED STATES, appellants. } Case No. 12. "San Bernadino."

This cause coming on to be heard on appeal from the final decision of the United States board of land commissioners to ascertain and settle the private land claims in the State of California, under an act of Congress approved March 3rd, 1851, on a transcript of the proceedings and decision of said board, and of the papers and evidence upon which said decision was founded; and it appearing to the court that said transcript and the notice of appeal have been duly filed according to law, and counsel for the respective parties having been heard:

It is ordered, adjudged and decreed, that the said decision of the said board be, and the same hereby is, confirmed; and it is further adjudged and decreed, that the claim of the above named appellees is good and valid, and the same is hereby confirmed to them, to the extent of eight square leagues of land, within the boundaries described in the grant, and in the espediente and map to which the grant refers; and if there should be less than said quantity of eight square leagues of land within said boundaries, then to such less quantity.

ISAAC S. K. OGIER,
U. S. Dist. Judge.

Filed Jan'y 29th, 1856.

C. E. CARR, *Cl'k.*

Order of appeal to Supreme Court.

In the District Court of the United States for the southern district of California—Los Angeles, December Term, 1855.

JOSE DEL CARMINE LUGO et al., appellees, ads. THE UNITED STATES, appellants. } No. 12. No. 316 of transcript.

On appeal from the United States Land Commission.

On motion of P. Ord, attorney of the United States for the southern district of California, it is hereby ordered by the court, that an appeal be granted the United States, to the Supreme Court of the United States, from the judgment of this court against the said United States, in the above entitled cause, rendered on or about the 7th day of December, A. D. 1855.

P. ORD,
Dist. Att'y.

Filed M'ch 7th, 1856.

C. E. CARR, *Clerk*,
By O. MORGAN, *Dep'y.*

UNITED STATES DISTRICT COURT,
Southern district of California.

CLERK'S OFFICE, LOS ANGELES.

I, Charles E. Carr, clerk of the district court of the United States for the southern district of California, do hereby certify the foregoing thirteen pages, numbered from 1 to 13, both inclusive, to contain a true and correct transcript of the records of the proceedings and of the decision of said court, and of the documentary evidence and testimony upon which said decision was founded, in case No. 12 on the docket of said court, wherein José del Carmen Lugo et al. are claimants against the United States, for the place named San Bernardino.

In witness whereof, I have hereunto set my hand and affixed the seal of said court, at Los Angeles, this 17th day of March, A. D. 1856, and of the independence of the United States of America the eightieth. [SEAL.]

C. E. CARR, *Clerk*,
By O. MORGAN, *Dep'y.*